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DEPARTMENT OF COMMERCE

International Trade Administration

[A-475-818]

Certain Pasta from Italy: Initiation of Changed Circumstances Review

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (“Department”) received information sufficient to warrant initiation of a changed circumstances review of the antidumping duty order on certain pasta (“pasta”) from Italy. Specifically, based upon a request filed by La Molisana S.p.A. (“La Molisana”), a producer/exporter to the United States of subject merchandise, the Department is initiating a changed circumstances review to determine whether La Molisana is the successor-in-interest of La Molisana Industrie Alimentari, S.p.A. (“La Molisana Industrie”), a respondent in several prior reviews and proceedings of the pasta *Order*.¹

DATES: EFFECTIVE DATE: (INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*).

FOR FURTHER INFORMATION CONTACT: Raquel Silva or Erin Begnal, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-6475 and (202) 482-1442, respectively.

¹ See *Notice of Antidumping Duty Order and Amended Final Determination of Sales at Less Than Fair Value: Certain Pasta From Italy*, 61 FR 38547 (July 24, 1996) (“*Order*”).

SUPPLEMENTARY INFORMATION:

Background

On July 24, 1996, the Department published an antidumping duty order on pasta from Italy.² On June 23, 2014,³ La Molisana informed the Department that, in 2011, the company was bought by the Ferro Family Group, which changed the company's name from La Molisana Industrie⁴ to La Molisana. La Molisana stated that La Molisana Industrie entered bankruptcy proceedings in 2004, but continued to operate and produce pasta un-interrupted until the ownership change and since.⁵ La Molisana submitted various documents supporting its request, including trademark registration filings with the U.S. government for La Molisana and La Molisana Industrie, organization charts for both entities, and catalogue excerpts for both.⁶

The company now known as La Molisana requests that: (1) the Department conduct a changed circumstances review pursuant to section 751(b)(1) of the Tariff Act of 1930, as amended, (the "Act") and 19 CFR 351.216 to determine that it is the successor-in-interest to La Molisana Industrie for purposes of the antidumping order; and (2) the Department conduct an expedited review pursuant to 19 CFR 351.221(c)(3).⁷ We received no comments from any other interested party.

Scope of the Order

Imports covered by the order are shipments of certain non-egg dry pasta in packages of five pounds four ounces or less, whether or not enriched or fortified or containing milk or other

² *See Order*.

³ *See* letter from La Molisana, "Certain Pasta From Italy: Request for Changed Circumstance Review," dated June 23, 2014 ("CCR Request"), at 4.

⁴ The CCR Request, at 2 – 3, indicates that La Molisana Industrie participated as a respondent in the original antidumping duty investigation, and the administrative review covering the period 1998 – 1999. Its cash deposit rate was again revised during a Section 129 proceeding in 2012 to 0%.

⁵ *See* CCR Request, at 4.

⁶ *Id.*, at Exhibits CC-1(a), CC-1(b), CC-4(d), and CC-4(e).

⁷ *Id.*, at 1, 13 - 14.

optional ingredients such as chopped vegetables, vegetable purees, milk, gluten, diastasis, vitamins, coloring and flavorings, and up to two percent egg white.

Excluded from the scope of the order are refrigerated, frozen, or canned pastas, as well as all forms of egg pasta, with the exception of non-egg dry pasta containing up to two percent egg white. Also excluded are imports of organic pasta from Italy that are certified by a European Union (“EU”) authorized body and accompanied by a National Organic Program import certificate for organic products.⁸ Pursuant to the Department’s May 12, 2011, changed circumstances review, effective January 1, 2009, gluten-free pasta is also excluded from the scope of the countervailing duty order.⁹

The merchandise subject to the order is currently classifiable under items 1901.90.90.95 and 1902.19.20 of the Harmonized Tariff Schedule of the United States (“HTSUS”). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise subject to the order is dispositive.

Initiation of Changed Circumstances Review

Pursuant to section 751(b)(1) of the Act, the Department will conduct a changed circumstances review upon receipt of information concerning, or a request from, an interested party for a review of an antidumping duty order which shows changed circumstances sufficient to warrant a review of the order. In the event that the Department determines that expedited action is warranted, 19 CFR 351.221(c)(3)(ii) permits the Department to combine the notices of initiation and preliminary results.

⁸ On October 10, 2012, the Department revised the “Scope of the Order” to recognize the EU-authorized Italian agents for purposes of the antidumping and countervailing duty orders on pasta from Italy. See Memorandum from Yasmin Nair to Susan Kuhbach, titled “Recognition of EU Organic Certifying Agents for Certifying Organic Pasta from Italy,” dated October 10, 2012, which is on file in the Department’s Central Records Unit.

⁹ See *Certain Pasta From Italy: Final Results of Countervailing Duty Changed Circumstances Review and Revocation, In Part*, [76 FR 27634](#) (May 12, 2011).

In accordance with 19 CFR 351.216(d), the Department determined that the information submitted by La Molisana constitutes sufficient evidence to conduct a changed circumstances review. In an antidumping duty changed circumstances review involving a successor-in-interest determination, the Department typically examines several factors including, but not limited to, changes in: (1) management; (2) production facilities; (3) supplier relationships; and (4) customer base.¹⁰ While no single factor or combination of factors will necessarily be dispositive, the Department generally will consider the new company to be the successor to the predecessor if the resulting operations are essentially the same as those of the predecessor company.¹¹ Thus, if the record demonstrates that, with respect to the production and sale of the subject merchandise, the new company operates as the same business entity as the predecessor company, the Department may assign the new company the cash deposit rate of its predecessor.¹²

Based on the information provided in its submission, La Molisana provided sufficient evidence to warrant a review to determine if it is the successor-in-interest to La Molisana Industrie. Therefore, pursuant to section 751(b)(1) of the Act and 19 CFR 351.216(d), we are initiating a changed circumstances review. However, information provided in the submissions, while sufficient for purposes of initiating this review, requires further clarification and/or supplementation before the successor-in-interest determination is reached. Accordingly, the Department intends to issue a questionnaire requesting additional information for the review, as provided for by 19 CFR 351.221(b)(2). For that reason, the Department finds that the expedited action is not warranted and, therefore, is not conducting this review on an expedited basis by

¹⁰ See, e.g., *Certain Activated Carbon From the People's Republic of China: Notice of Initiation of Changed Circumstances Review*, 74 FR 19934, 19935 (April 30, 2009).

¹¹ See, e.g., *Notice of Initiation of Antidumping Duty Changed Circumstances Review: Certain Forged Stainless Steel Flanges from India*, 71 FR 327 (January 4, 2006).

¹² See, e.g., *Fresh and Chilled Atlantic Salmon From Norway; Final Results of Changed Circumstances Antidumping Duty Administrative Review*, 64 FR 9979, 9980 (March 1, 1999).

publishing preliminary results in conjunction with this notice of initiation. The Department will publish in the *Federal Register* a notice of the preliminary results of the antidumping duty changed circumstances review, in accordance with 19 CFR 351.221(b)(4), and 19 CFR 351.221(c)(3)(i). That notice will set forth the factual and legal conclusions upon which our preliminary results are based and a description of any action proposed.

Pursuant to 19 CFR 351.221(b)(4)(ii), interested parties will have an opportunity to comment on the preliminary results of review. In accordance with 19 CFR 351.216(e), the Department will issue the final results of its antidumping duty changed circumstances review not later than 270 days after the date on which the review is initiated, or not later than 45 days if all parties to the proceeding agree to the outcome of the review.

This notice is published in accordance with sections 751(b)(1) and 777(i)(1) of the Act and 19 CFR 351.216(b) and 351.221(b)(1).

Dated: August 5, 2014.

Christian Marsh,
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations.

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